

Kansas Corporation Commission
Notice of Hearing
on
Proposed Administrative Regulations

A public hearing will be conducted at 10:00 a.m. on Thursday, May 16, 2013, at the Kansas Corporation Commission, 130 S. Market, Room 2078, Wichita, Kansas 67202, to consider the adoption of proposed permanent regulations. The new and amended regulations address horizontal wells, pits, spills, and transfers of refuse.

This 60-day notice of the public hearing constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Lane Palmateer, Litigation Counsel, State Corporation Commission, 130 S. Market, Room 2078, Wichita, Kansas, 67202; or by email to oilandgasregcomments@kcc.ks.gov. In addition, interested parties will be given a reasonable opportunity to present their views regarding the adoption of the proposed regulations during the public hearing.

Any individual with a disability may request accommodation to participate in the public hearing and may request the proposed regulations and economic impact statement be provided in an accessible format. Requests for accommodation to participate in the hearing should be made at least 10 days in advance of the hearing by contacting Lane Palmateer at 316-337-6200.

Copies of the proposed regulations and economic impact statement may be obtained from the Commission's Office at 130 South Market, Room 2078, Wichita, Kansas 67202 or from the Commission's website at <http://kcc.ks.gov>. Internet access will not result in a fee. Provision of a physical copy of the regulations may result in the costs being assessed to the requesting party.

Summaries of the proposed regulations and economic impact statement follow:

K.A.R. 82-3-103a. Deviated holes; notice and hearing required. The proposed amendment to this regulation removes the application and notice requirement for drilling a horizontal well.

K.A.R. 82-3-135a. Notice of application. The proposed amendment to this regulation clarifies the notice requirement for an application for a deviated wellbore. This is a technical change, and there is not a substantive change to this regulation.

K.A.R. 82-3-602. Closure of pits; disposal of pit contents; closure form; drilling fluid management; surface restoration. The proposed amendment to this regulation reduces the time allowed to close a work-over pit from 365 days to 90 days; provides limits on extensions for pit closure; removes the requirement to report chlorides in a reserve pit within 48 hours; limits the references to technical documents; removes language regarding transfer of pit waste to prevent a conflict with proposed new K.A.R. 82-3-608; removes the requirement to provide

notice before transferring waste from a pit; and changes the surface restoration required from “to the greatest extent possible” to “as nearly as practicable.”

K.A.R. 82-3-603. Spill notification and cleanup; penalty; lease maintenance. The proposed amendment to this regulation requires “reasonable diligence” in preventing spills instead of a strict prohibition of spills. The regulation also references the refuse transfer reporting requirement in K.A.R. 82-3-608.

K.A.R. 82-3-604. Discharges into emergency pits and diked areas; removal of fluids; penalties. The proposed amendment to this regulation creates a reference to the refuse transfer reporting requirement in K.A.R. 82-3-608, except if the fluid is removed from the pit or diked area to an on-site tank.

K.A.R. 82-3-607. Disposal of dike and pit contents. The proposed amendment to this regulation creates a reference to the refuse transfer reporting requirement in K.A.R. 82-3-608, except if the refuse is removed to the same on-site tank or facility from which the refuse originated. The penalty amounts in subsection (b) are removed, and a reference to the penalty in K.A.R. 82-3-608(d) is added, to prevent the creation of a duplicative penalty.

K.A.R. 82-3-608. Transfer of refuse. This new regulation creates a form-filing requirement within 30 days after an operator transfers “refuse from any pit or diked area or refuse relating to any remediation or cleanup activity.” The regulation specifies penalties for the failure to comply with the requirement. The regulation also provides Commission staff with authority to require an operator to transfer “refuse from any pit or diked area or refuse relating to any remediation or cleanup activity” if it is reasonably likely that the refuse would cause pollution without the transfer. The regulation provides penalty amounts for the failure to timely transfer refuse.

K.A.R. 82-3-1300. Definitions; horizontal wells. This new regulation creates definitions relating to horizontal wells.

K.A.R. 82-3-1301. Horizontal wells. This new regulation provides that the regulations applicable to vertical wells shall apply to horizontal wells except as specifically provided, and in addition to, the requirements in K.A.R. 82-3-1300 through K.A.R. 82-3-1307.

K.A.R. 82-3-1302. Notice of intention to drill; setback. This new regulation provides a form-filing requirement before drilling a horizontal well, with information specific to horizontal wells. The regulation also provides that the setback specified in K.A.R. 82-3-108, K.A.R. 82-3-207, and K.A.R. 82-3-312 shall apply to the entire completion interval of each horizontal wellbore.

K.A.R. 82-3-1303. Oil and gas allowables. This new regulation provides horizontal oil wells with an allowable of 200 barrels per 660 feet of completion interval, with each remainder of less than 660 feet resulting in a correspondingly proportionate addition to the allowable. Horizontal gas wells are granted an allowable of 3,000,000 cubic feet per day.

K.A.R. 82-3-1304. Gas well test exemption. This new regulation exempts horizontal wells from the gas well testing requirements in K.A.R. 82-3-303 and K.A.R. 82-3-304.

K.A.R. 82-3-1305. Venting and flaring. This new regulation prohibits venting from any horizontal well and provides requirements for flaring from a horizontal well.

K.A.R. 82-3-1306. High-volume pumps. This new regulation exempts horizontal wells from the requirements in K.A.R. 82-3-131 pertaining to high-volume pumps.

K.A.R. 82-3-1307. Well completion report. This new regulation provides that an operator of a horizontal well will provide a well completion report pursuant to K.A.R. 82-3-106 and K.A.R. 82-3-130, including information specific to horizontal wells and a directional survey.

Economic Impact Statement:

The horizontal well regulations will not add a substantial cost to either the Commission or the industry. The horizontal well regulations will lessen the costs associated with obtaining authorization to drill a horizontal well in Kansas and expedite the process. As detailed in the application, testimony, hearing transcript, and Order in KCC Docket 12-CONS-117-CEXC, Commission staff has spent substantial time obtaining recommendations from stakeholders regarding horizontal wells.

The regulations addressing transfer of refuse will create a small direct cost for the Commission that will be handled by current staff members. The regulations will expand a form filing requirement for the industry, but the expansion will not create a substantial additional cost to the industry. Commission Staff has spent substantial time discussing the expansion with stakeholders to ensure the final product is appropriately tailored to meet the objective. The refuse transfer regulations will provide an environmental benefit by assisting Commission staff in ensuring that proper disposal techniques are employed with regard to transferred refuse.

ECONOMIC IMPACT STATEMENT

Horizontal Wells, Pits, Spills, and Transfers of Refuse

I. Summary of Proposed Regulations, Including the Intended Purpose.

Amended K.A.R. 82-3-103a and K.A.R. 82-3-135a, and new K.A.R. 82-3-1300 through K.A.R. 82-3-1307. These amended and new regulations address horizontal wells. The state of Kansas is currently experiencing an increase in the drilling and operation of horizontal wells. Traditionally, horizontal wells were considered on a case-by-case basis through the application, hearing, and order process. These regulations change the approval process to a form submission and approval requirement. The regulations also exempt horizontal wells from certain requirements that are only relevant to vertical wells, and they amend other requirements to ensure relevance to horizontal wells. The intended purpose of the regulations is to effectively regulate horizontal wells with regard to the prevention of waste, protection of correlative rights, and prevention of pollution, while at the same time removing unnecessary paperwork and delay in obtaining approval to drill and operate a horizontal well.

Amended K.A.R. 82-3-602, K.A.R. 82-3-603, K.A.R. 82-3-604, and K.A.R. 82-3-607, and new K.A.R. 82-3-608. These amended and new regulations address reporting of certain transfers of refuse. Currently, pit waste transfers must be reported pursuant to K.A.R. 82-3-602. Other types of refuse transfers, however, are not tracked. New K.A.R. 82-3-608 requires that operators file a form after transferring “refuse from any pit or diked area or refuse relating to any remediation or cleanup activity.” Commission staff may also require a refuse transfer “if it is reasonably likely that the refuse would cause pollution without the transfer.” The purpose of the expanded reporting requirement is to track refuse transfers to ensure proper disposal. Several miscellaneous changes were added during discussions with stakeholders and as part of the regulatory review process.

II. Reason the Proposed Regulation Is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

Federal law does not mandate these proposed regulations, and the regulations are not being proposed in response to a recent change in state law.

Amended K.A.R. 82-3-103a and K.A.R. 82-3-135a, and new K.A.R. 82-3-1300 through K.A.R. 82-3-1307. In response to expanded horizontal well drilling activity in Kansas, Commission staff contacted interested parties and formed a committee to discuss relevant issues. After committee meetings and recommendations, an application was filed, a hearing held, and an Order issued in KCC Docket 12-CONS-117-CEXC. The order created special field rules applying to horizontal wells drilled in the Mississippi formation. At hearing, the Commission directed Staff to draft regulations. These regulations are substantially similar to the special field rules set out in the Commission’s Order, and they will apply to all geological formations.

Amended K.A.R. 82-3-602, K.A.R. 82-3-603, K.A.R. 82-3-604, and K.A.R. 82-3-607, and new K.A.R. 82-3-608. Commission staff is proposing the expansion to the refuse reporting requirement because this will ensure proper disposal.

III. Anticipated Economic Impact.

Amended K.A.R. 82-3-103a and K.A.R. 82-3-135a, and new K.A.R. 82-3-1300 through K.A.R. 82-3-1307. The Commission will likely incur costs associated with the regulation of horizontal wells. However, these costs will correspond with the increased drilling and production activity and are not the result of any change from these amended and new regulations. Instead, it is expected that these changes will assist the Commission staff in efficiently and effectively regulating horizontal wells.

The amendments and new regulations pertaining to the permitting of horizontal wells will decrease the regulatory costs to the industry. Currently, an operator must file an application, mail notice to interested parties, publish notice in two newspapers, and obtain Commission approval of the application before drilling a horizontal well. Orders are usually issued administratively, but in some cases an evidentiary hearing may be required. These requirements are in addition to the standard drilling intent form and any other permit applications, for example a pit permit or a permit for a saltwater disposal well.

The proposed regulatory changes would eliminate the application and notice requirements and replace them with a form-filing requirement. In addition to saving costs associated with applications and notice, the new process will allow Commission staff to approve the drilling of horizontal wells much more quickly. While the current application process takes in excess of 30 days due to publication requirements, and potentially much longer if a hearing is required, the new form process would only take a few days. Since the Commission's special field rules in KCC Docket #12-CONS-117-CEXC became effective, many Mississippian horizontal wells have been approved through the form-filing process. Expanding this existing process to include all horizontal wells will not require many staff resources, because the framework for form approval is already in place.

The amendments and new regulations will also decrease the regulatory cost to the industry by reducing or eliminating the need to file additional applications regarding increased oil and gas production allowables, gas well tests, flaring, and high volume pumps. The original regulations covering these topics are not relevant to horizontal wells.

Amended K.A.R. 82-3-602, K.A.R. 82-3-603, K.A.R. 82-3-604, and K.A.R. 82-3-607, and new K.A.R. 82-3-608. The expanded refuse transfer requirement will create a cost to the Commission relating to the processing of forms, but the cost is anticipated to be small. There is currently a form in use for reporting transfers of pit waste that can be easily adapted to address other transfers of refuse. Processing the additional forms will be performed by current staff members. The KCC will also bear some costs associated with enforcement.

The expansion of the refuse transfer form requirement will create a small cost to the regulated industry. In addition, the 24-hour prior notice provision in K.A.R. 82-3-602(b) that currently applies to transfers from pits is removed in new K.A.R. 82-3-608, and this reduces a cost to the industry. Exception language is included in K.A.R. 82-3-604 and K.A.R. 82-3-607 to provide practical limits to the reporting requirement. In addition, Commission staff has met extensively with stakeholders to ensure that this expansion of the reporting requirement is properly tailored to meet this objective.

In developing the proposed expansion of the form requirement for refuse transfers, miscellaneous changes were made in response to recommendations from stakeholders, from Commission staff, and as part of the regulatory review process. These changes are not expected to result in significant additional direct costs to the agency or indirect costs to the regulated industry, and in some cases, they decrease costs. The changes to K.A.R. 82-3-602 would reduce the time allowed to close a work-over pit from 365 days to 90 days; provide limits on extensions for pit closure; remove the requirement to report chlorides in a reserve pit within 48 hours; limit the references to technical documents; and change the surface restoration required from “to the greatest extent possible” to “as nearly as practicable.” The amendment to K.A.R. 82-3-603 would require “reasonable diligence” in preventing spills instead of a strict prohibition of spills.

It is possible that some horizontal well operators may fall under the definition of “small employer” in K.S.A. 77-415, although presently most of the horizontal well operators appear to be large companies that are primarily located outside of Kansas. It is likely that some operators transferring refuse will fall under the definition of “small employer.” It is not expected that private citizens other than oil and gas operators will directly bear the costs of the regulations.

If the proposed regulations are not adopted, unnecessary hurdles for drilling horizontal wells will not be removed, and some refuse transfers will continue to be exempt from tracking.

IV. Environmental Benefit Statement.

Expansion of the form requirement for refuse transfers will provide an environmental benefit. Currently, there are requirements in place regarding the proper disposal of refuse. The absence of reporting, however, makes enforcement of violations difficult. The form requirement will allow Commission staff to track refuse and verify that operators are using disposal techniques that prevent pollution.

82-3-103a. Deviated holes; ~~horizontal drilling~~; notice and hearing required. (a) ~~The owner, operator, or persons responsible for a drilling operation shall submit written notice of the intention to drill for approval by the conservation division before the commencement of drilling operations, for any hole where intended deviation from the surface to the top of the producing formation exceeds 7°.~~

(b) ~~Any hole drilled horizontally into a formation for production or deviated in the manner stated in subsection (a) may be permitted by the commission only after application to the conservation division and notice pursuant to K.A.R. 82-3-135a.~~ The owner, operator, or persons responsible for the drilling operation of any well that is not classified as a horizontal well according to K.A.R. 82-3-1300 and in which the intended deviation from the surface to the top of the producing formation exceeds seven degrees shall perform the following before commencing drilling operations:

(1) File and obtain commission approval of an application; and

(2) provide notice according to K.A.R. 82-3-135a.

(b) The application may be set for hearing by the commission. (Authorized by K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; implementing K.S.A. 2011 Supp. 55-151; effective May 8, 1989; amended April 23, 1990; amended Aug. 29, 1997; amended P-_____.)

82-3-135a. Notice of application. (a) Scope. Except as otherwise provided in K.A.R. 82-3-100, ~~82-3-103a~~, 82-3-108, 82-3-109, 82-3-138, 82-3-203, 82-3-208, 82-3-209, 82-3-300, and 82-3-300a, the notice requirements in this regulation shall apply to each application for an order or permit filed pursuant to any regulation, special order, or statutory provision for the conservation of crude oil and natural gas or for the protection of fresh and usable water.

(b) Production matters. Except as otherwise provided in K.A.R. 82-3-100, ~~82-3-103a~~, 82-3-108, 82-3-109, 82-3-138, 82-3-203, 82-3-208, 82-3-209, 82-3-300, and 82-3-300a, each applicant for an order filed pursuant to K.A.R. 82-3-100 through K.A.R. 82-3-314 shall give notice of the application on or before the date the application is filed with the conservation division by mailing or delivering a copy of the application to the following:

(1) Each operator or lessee of record within a one-half mile radius of the well or of the subject acreage; and

(2) each owner of record of the minerals in unleased acreage within a one-half mile radius of the well or of the subject acreage.

(c) Environmental matters. Each applicant for an order or permit filed pursuant to K.A.R. 82-3-400 through 82-3-412 and K.A.R. 82-3-600 through 82-3-607 shall give notice of the application on or before the date the application is filed with the conservation division by mailing or delivering a copy of the application to the following:

(1) Each operator or lessee of record within a one-half mile radius of the well or of the subject acreage;

(2) each owner of record of the minerals in unleased acreage within a one-half mile radius of the well or of the subject acreage; and

(3) the landowner on whose land the well affected by the application is located.

(d) Publication of notice. Notice of the application shall be published in at least one issue of the official county newspaper of each county in which the lands affected by the application are located. In addition, notice of applications relating to production matters shall also be published in at least one issue of the Wichita Eagle newspaper.

(e) Protest. Once notice of the application is published pursuant to subsection (d), the application shall be held in abeyance for 15 days for production matters and 30 days for environmental matters, pending the filing of any protest pursuant to K.A.R. 82-3-135b. If a valid protest is filed or if the commission, on its own motion, deems that there should be a hearing on the application, a hearing shall be held. The applicant shall publish notice of the hearing pursuant to K.A.R. 82-3-135. (Authorized by K.S.A. 55-152, as amended by L. 2012, Ch. 101, sec. 1, K.S.A. 55-704, K.S.A. 2011 Supp. 55-901; implementing K.S.A. 55-605, K.S.A. 2011 Supp. 55-901, K.S.A. 55-1003; effective April 23, 1990; amended Oct. 24, 2008; amended P-_____.)

82-3-602. ~~Time limitation; penalty; Closure of pits; disposal of pit contents; closure forms form; drilling fluid management; waste transfer; surface restoration.~~ (a) Closure of pits.

(1) ~~The time limitation for the closure of each pit,~~ Unless otherwise specified in writing by the commission, ~~shall be according to the following schedule~~ each operator shall close the following:

(A) Drilling pits or haul-off pits ~~shall be closed within a maximum of 365 calendar days after the spud date of a well;~~ ;

(B) work-over pits ~~shall be closed within a maximum of 365~~ 90 days after work-over operations have ceased; and

(C) settling pits, burn pits, and emergency pits ~~shall be closed~~ within 30 days after cessation or abandonment of the lease.

(2) Any operator may request a pit permit ~~may be extended upon written request by the operator and with the approval of~~ extension of not more than three months, and the request may be granted by the director. An extension may be granted due to pit conditions or for other good cause shown by the operator. Any pit permit extension may be renewed upon additional request by the operator, but no pit permit extension shall be extended beyond six months after the original deadline. Failure to close any pit or to file an extension within the prescribed time limits ~~set out~~ specified in paragraphs (1)(A) through (C) of this subsection shall be punishable by a \$250 penalty.

(b) ~~Closure~~ Disposal of pit contents. Before backfilling any pit, ~~the~~ each operator shall dispose of the pit contents according to K.A.R. 82-3-607 and shall submit the required form pursuant to K.A.R. 82-3-608.

(c) Closure form ~~required~~. Each operator of a pit shall file a pit closure form prescribed by the commission within 30 days after the closure of the pit. Failure to file the pit closure form in accordance with this subsection shall be punishable by a \$100 penalty.

(d) Drilling fluid management.

~~(1) — Each operator of a reserve pit shall report the chloride content of reserve pit fluids and the drilling fluid management plan to the appropriate district office within 48 hours after drilling operations cease. The chloride concentration shall be measured by a state-certified laboratory or according to either of the following American petroleum institute fluid testing standards, which are hereby adopted by reference:~~

~~(A) — "Recommended practice: standard procedure for field testing water-based drilling fluids," second edition, September 1997; and~~

~~(B) — "recommended practice: standard procedure for laboratory testing drilling fluids," sixth edition, May 2000.~~

~~Alternately, the chloride concentration shall be measured by using another field or laboratory test approved by the commission.~~

~~(2) — Each operator of a reserve pit shall report the drilling fluid management methods utilized for the reserve pit on the affidavit of completion required by K.A.R. 82-3-130. Each operator of a reserve pit shall report the drilling fluid management methods utilized for the reserve pit, including the chloride concentration of the drilling fluids, on the affidavit of completion required by K.A.R. 82-3-130.~~

~~(1) Except as specified in paragraph (d)(2), the chloride concentration shall be calculated according to the following portions of the American petroleum institute's~~

“recommended practice: standard procedure for field testing water-based drilling fluids,” second edition, dated September 1997, which are hereby adopted by reference:

(A) Section 10.3 on pages 21-22;

(B) appendix A; and

(C) tables 1 and 5.

(2) An alternate test for measuring the chloride concentration may be approved by the director if the alternate test is at least as accurate and precise as the required test.

~~(e) Waste transfer. Each pit operator shall notify the appropriate district office at least 24 hours before transferring pit waste according to subsection (b). Within 30 days after the transfer of the waste, each operator shall file a form prescribed by the commission with the conservation division reporting any transfer of pit waste from the lease.~~

(f) Surface restoration. Upon abandonment of any pit, the operator shall grade the surface of the soil as soon as practicable or as required by the commission. ~~To the greatest extent possible,~~ The surface of the soil shall be returned, as nearly as practicable, to the ~~same~~ condition as that ~~which~~ existed before the construction of the pit. (Authorized by K.S.A. 2012 Supp. 55-152, K.S.A. ~~2000 Supp.~~ 74-623; implementing K.S.A. 55-171; effective, T-87-46, Dec. 19, 1986; effective May 1, 1987; amended May 1, 1988; amended July 29, 1991; amended April 23, 2004; amended P-_____.)

82-3-603. Spill notification and cleanup; penalty; lease maintenance. (a) ~~Escape of oil field fluids prohibited~~ Spill prevention. No person shall permit saltwater, oil, or refuse from any well to escape by overflow, seepage, or other means from the vicinity of the well. Each operator shall ~~keep this act with reasonable diligence to prevent spills and safely confine~~ saltwater, oil, ~~or~~ and refuse safely confined in tanks, pipelines, pits, or dikes ~~to prevent the escape of these substances~~.

(b) ~~Notification: when required.~~

(1) ~~Threat to surface water or groundwater.~~ Each operator shall notify the appropriate district office in accordance with subsection (c) immediately upon discovery or knowledge of any ~~escape of saltwater, oil, or refuse~~ spill that has reached or threatens to reach surface water or that has impacted or threatens to impact groundwater. ~~The~~ Each operator shall take immediate action in accordance with procedures specified or approved by the district office to contain and prevent the saltwater, oil, or refuse from reaching surface water or impacting groundwater.

(2) ~~Timely notification of spills.~~ Except as otherwise specified in this regulation, ~~the~~ each operator shall notify the appropriate district office of any ~~escape of saltwater, oil, or refuse that meets the definition of "spill"~~ spill, as defined in K.A.R. 82-3-101. This notification shall meet the requirements of subsection (c) and shall be made ~~no~~ not later than the next business day following the date of discovery or knowledge of the spill.

(3) ~~Exception for minor leaks and drips.~~ The notification requirement for spills in paragraph (b)(2) shall not apply to very minor amounts of saltwater, oil, or refuse; that unavoidably or unintentionally leak or drip from pumps, machinery, pipes, valves, fittings, ~~or~~ well rods, or tubing during the conduct of normal prudent operations and that are not confined in dikes or pits or within the vicinity of the well. ~~However,~~ This exception shall not apply to ongoing, continual, or repeated leaks or drips, or to leaks or drips that are the result of intentional

spillage or abnormal operations, including unrepaired or improperly maintained pumps, machinery, pipes, valves, and fittings.

(4) ~~"Discovery or knowledge" defined.~~ For purposes of this regulation, the point of "discovery or knowledge" shall mean that point when the operator knew or reasonably should have known of the spill ~~or escape~~.

(5) The notification requirement in this subsection shall apply even if the operator knows or believes that the appropriate district office is already aware of the spill.

(c) Information required with notification. ~~The notification requirement in subsection (b) shall include~~ Each operator shall submit the following information in conjunction with the notification requirement in subsection (b):

- (1) The operator's name and license number;
- (2) the lease name, ~~and~~ legal description, ~~and the~~ approximate spill location;
- (3) the time and date the spill occurred;
- (4) a description of the ~~escaped~~ spilled materials, including type and amount;
- (5) a description of the circumstances creating the spill;
- (6) the location of the spill with respect to the nearest fresh and usable water resources;
- (7) the proposed method for containing and cleaning up the spill; and
- (8) any other information that the commission may require.

(d) Penalty for failure to notify. ~~The notification requirement in subsection (b) shall apply even if the operator knows or believes that the appropriate district office is already aware of the spill or escape.~~ The failure to comply with subsection (b) shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty and an operator license review for the third violation.

(e) Cleanup of spill ~~or escape~~.

(1) ~~Reportable spill or escape.~~ The Each operator shall clean up any spill ~~or escape~~ that requires notification under this regulation in accordance with the cleanup method approved by the appropriate district office. The cleanup techniques deemed appropriate and acceptable to the appropriate district office shall be physical removal, dilution, treatment, and bioremediation. Except as otherwise required by law or regulation, ~~the each~~ operator shall complete the cleanup of the spill ~~or escape~~ within 10 days after discovery or knowledge ~~of the spill or escape~~, or by the deadline prescribed in writing by the district office.

(2) ~~Other spills and escapes.~~ The Each operator shall clean up all leaks, drips, and escapes that are excepted from notification under this regulation in accordance with cleanup techniques recognized as appropriate and acceptable by the commission. The following cleanup techniques shall be deemed appropriate and acceptable to the commission ~~shall be~~ : physical removal, dilution, treatment, and bioremediation. Each operator shall accomplish this cleanup ~~shall be accomplished~~ upon completion of the routine operation or condition that caused the leak, drip, or escape or within 24 hours of discovery or knowledge of the leak, drip, or escape, whichever occurs sooner.

(3) If refuse is transferred in conjunction with a cleanup pursuant to paragraph (e)(1) or (e)(2), each operator shall submit any required forms according to K.A.R. 82-3-608.

(f) Penalties. Failure to contain and clean up the spill ~~or escape~~ in accordance with this regulation shall be punishable by a the following penalties:

(1) \$1,000 ~~penalty~~ for the first violation; ;

(2) a \$2,500 ~~penalty~~ for the second violation; ; and

(3) a \$5,000 ~~penalty~~ and an operator license review for the third violation. (Authorized by K.S.A. 2012 Supp. 55-152; implementing K.S.A. ~~2002~~ 2012 Supp. 55-164, K.S.A. 55-172, K.S.A. 74-623; effective, T-87-46, Dec. 19, 1986; effective May 1, 1987; amended May 1, 1988; amended April 23, 1990; amended April 23, 2004; amended P-_____.)

82-3-604. Discharges into emergency pits and diked areas; removal of fluids; penalties. (a)

Notification of discharge. Each operator shall notify the appropriate district office within 24 hours of discovery or knowledge of any oil field-related discharge of five or more barrels of saltwater, oil, or refuse into an emergency pit or diked area.

(b) Removal of fluids from pit or dike. Each operator of an emergency pit or diked area shall remove any fluid from the pit or diked area within 48 hours after discovery or knowledge, or as authorized by the appropriate district office, and shall dispose of the fluid according to K.A.R. 82-3-607. The operator shall submit forms pursuant to K.A.R. 82-3-608, unless the fluid is removed to an on-site tank.

(c) "Discovery or knowledge" defined. For purposes of this regulation, the point of "discovery or knowledge" shall mean that point when the operator knew or reasonably should have known of the discharge.

(d) Penalties. The failure to timely notify the district office, ~~in accordance with subsection (a),~~ of an oil field-related discharge into an emergency pit or diked area in accordance with subsection (a), or the failure to timely remove fluids from an emergency pit or diked area in accordance with subsection (b), shall be punishable by the following penalties:

- (1) \$250 for the first violation;
- (2) \$500 for the second violation; and
- (3) \$1,000 and an operator license review for the third violation. (Authorized by K.S.A. 2012 Supp. 55-152; implementing K.S.A. ~~2003~~ 2012 Supp. 55-164, K.S.A. 55-172, and K.S.A. 74-623; effective April 23, 1990; amended June 6, 1994; amended April 23, 2004; amended P-_____.)

82-3-607. Disposal of dike and pit contents. (a) Each operator shall perform one of the following when disposing of dike or pit contents:

(1) Remove the liquid contents to a disposal well or other oil and gas operation approved by the commission or to road maintenance or construction locations approved by the department;

(2) dispose of reserve pit waste down the annular space of a well completed according to the alternate I requirements of K.A.R. 82-3-106, if the waste ~~to be disposed of~~ was generated during the drilling and completion of the well; or

(3) dispose of the remaining solid contents in any manner required by the commission.

The requirements may include any of the following:

(A) Burial in place, in accordance with the grading and restoration requirements in K.A.R. 82-3-602 ~~(f)~~ (e);

(B) removal ~~and placement~~ of the contents ~~in~~ to an on-site disposal area approved by the commission;

(C) removal ~~and placement~~ of the contents ~~in~~ to an off-site disposal area on acreage owned by the same landowner or to another producing lease or unit operated by the same operator, if prior written permission from the landowner has been obtained; or

(D) removal of the contents to a permitted off-site disposal area approved by the department.

(b) Each violation of this regulation shall be punishable ~~by the following~~:

~~(1) — A \$1,000 penalty for the first violation;~~

~~(2) — a \$2,500 penalty for the second violation; and~~

~~(3) — a \$5,000 penalty and an operator license review for the third violation pursuant to~~
K.A.R. 82-3-608(d).

(c) If refuse is transferred pursuant to this regulation, the operator shall submit forms
pursuant to K.A.R. 82-3-608, unless the refuse is removed to the same on-site tank or facility
from which the refuse originated. (Authorized by and implementing K.S.A. 2012 Supp. 55-152
and K.S.A. ~~2000~~ 2012 Supp. 55-164, as amended by ~~L. 2001, Ch. 5, Sec. 191~~; effective April 23,
2004; amended P-_____.)

82-3-608. Transfer of refuse. (a) Each operator shall file a form prescribed by the commission within 30 days after the operator transfers refuse from any pit or diked area or refuse relating to any remediation or cleanup activity.

(b) The failure to timely submit the form specified in subsection (a) shall be punishable by the following penalties:

- (1) \$250 for the first violation;
- (2) \$500 for the second violation; and
- (3) \$1,000 and an operator license review for the third violation.

(c) The conservation division central office and the district offices may require any operator to transfer refuse from any pit or diked area or refuse relating to any remediation or cleanup activity, if it is reasonably likely that the refuse would cause pollution without the transfer.

(d) The failure to timely transfer refuse shall be punishable by the following penalties:

- (1) \$1,000 for the first violation;
- (2) \$2,500 for the second violation; and
- (3) \$5,000 and an operator license review for the third violation. (Authorized by and

implementing K.S.A. 2012 Supp. 55-152, K.S.A. 2012 Supp. 55-164, and K.S.A. 74-623;

effective P-_____.)

82-3-1300. Definitions; horizontal wells. The terms and definitions in K.A.R. 82-3-101, with some of those definitions modified as follows, shall apply to these regulations for horizontal wells, in addition to the new terms and definitions specified:

- (a) “Bottom-hole location” means the terminus of each horizontal wellbore.
- (b) “Completion interval” means the following:
 - (1) For open-hole horizontal wellbores, the area between the point that the wellbore contacts the producing formation and the bottom hole, including any isolation packers; and
 - (2) for cased horizontal wellbores, the area between the perforation nearest the vertical portion of the horizontal well and the perforation nearest the bottom-hole location.
- (c) “Directional survey” means a report showing the location of the horizontal wellbore from the surface location to the bottom hole.
- (d) “Horizontal well” means a well that is drilled from a surface location and includes one or more horizontal wellbores.
- (e) “Horizontal wellbore” means any portion of a horizontal well that extends laterally within the productive or injection formation.
- (f) “Measured total depth” means the total length of the drilled wellbore.
- (g) “Surface location” means the point at which the vertical portion of a horizontal well penetrates the ground at the surface.
- (h) “True vertical depth” means the distance from the deepest point in the wellbore measured vertically to a point with the same elevation as that of the surface location.

(Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)

82-3-1301. Horizontal wells. The regulations applicable to wells, as defined in K.A.R. 82-3-101, shall apply to horizontal wells, except as specifically provided in and in addition to the requirements of K.A.R. 82-3-1300 through K.A.R. 82-3-1307. (Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)

82-3-1302. Notice of intention to drill; setback. (a) Before commencing the drilling of any horizontal well, each operator shall submit to the conservation division and obtain approval of a written notice of the intention to drill according to K.A.R. 82-3-103 on a form supplied by the commission. The notice shall include information specific to the horizontal well, including the estimated true vertical depth, the estimated bottom-hole location, the estimated completion interval, a brief description of the leased acreage, and a statement regarding whether multiple leases are unitized. Each submitted form shall be accompanied by a detailed plat map that includes the surface location, estimated completion interval, estimated bottom-hole location, and lease or unit boundaries.

(b) The setback requirements in K.A.R. 82-3-108, K.A.R. 82-3-207, and K.A.R. 82-3-312 shall be applicable to the entire completion interval of each horizontal wellbore.

(Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)

82-3-1303. Oil and gas allowables. (a) The oil allowables specified in K.A.R. 82-3-203 and the standard daily allowable for gas wells specified in K.A.R. 82-3-312 shall not apply to horizontal wells.

(b) Each horizontal well classified as an “oil well” in K.A.R. 82-3-101 shall be assigned a production allowable of 200 barrels of oil per day for each 660 feet of the completion interval. Each remainder of less than 660 feet shall result in a correspondingly proportionate addition to the allowable.

(c) Each horizontal well classified as a “gas well” in K.A.R. 82-3-101 shall be assigned a production allowable of 3,000,000 cubic feet per day. (Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-
_____.)

82-3-1304. Gas well test exemption. The gas well testing requirements in K.A.R. 82-3-303 and K.A.R. 82-3-304 shall not apply to any horizontal well. (Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)

82-3-1305. Venting and flaring. (a) The venting and flaring requirements in K.A.R. 82-3-208 and K.A.R. 82-3-314 shall not apply to any horizontal well.

(b) The following venting and flaring requirements shall apply to each horizontal well:

(1) No operator shall vent gas from any horizontal well.

(2) Each operator flaring gas from a horizontal well shall meet the following requirements:

(A) The operator shall ensure that the site is inspected and approved by the appropriate district office before the commencement of flaring.

(B) The operator shall file an affidavit on a form supplied by the commission within five days after commencement of flaring.

(C) The operator may flare gas for a maximum of 30 producing days following the initial horizontal completion or recompletion.

(i) A “producing day” shall mean any day in which fluid is produced at the well.

(ii) When counting the producing days for flaring purposes, the producing days may be consecutive or intermittent, or both.

(D) The operator may submit a written request to flare for an additional 30 producing days. The request shall be granted by the director if the operator demonstrates that additional flaring is necessary to prevent waste and will not violate correlative rights. Only one additional flaring period of 30 producing days may be authorized by the director.

(E) No operator shall flare gas for more than 60 producing days without commission approval of an application for an exception according to K.A.R. 82-3-100.

(F) The operator shall continuously meter, measure, or monitor the flared gas and shall retain the chart or record for at least two years. The operator shall provide the conservation division with a copy of the chart or record within five business days of receipt of any request.

(Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)

82-3-1306. High-volume pumps. The restrictions on and requirements for the use of high-volume pumps in K.A.R. 82-3-131 shall not apply to any horizontal well. (Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-
_____.)

82-3-1307. Well completion report. Each operator of a horizontal well shall comply with the affidavit requirements in K.A.R. 82-3-106 and K.A.R. 82-3-130 by submitting to the conservation division and obtaining approval of a well completion report on a form provided by the commission, which shall include the true vertical depth and information specific to the horizontal well. Each submitted form shall be accompanied by a copy of the directional survey and a detailed, as-drilled plat map that includes the lease or unit boundaries, surface location, completion interval, and bottom-hole location. (Authorized by and implementing K.S.A. 55-152, as amended by L. 2012, ch. 101, sec. 1; effective P-_____.)